

Section III – Items for the Information of the Board

TO: Chair and Members of the Board of Directors
Friday, June 25, 2021 Meeting

FROM: John MacKenzie, Chief Executive Officer

RE: **DISPERSAL OF FUNERAL ASHES IN WATERCOURSES**

KEY ISSUE

Response to inquiries received by TRCA, to identify appropriate options for the dispersal of funeral ashes in rivers, creeks or other water bodies within TRCA's jurisdiction.

RECOMMENDATION

WHEREAS partner municipalities and organizations have expressed interest in accessing lands owned or managed by Toronto and Region Conservation Authority (TRCA) for the dispersal of funeral ashes in rivers, creeks and other bodies of water;

AND WHEREAS TRCA is limited in its ability to regulate or formalize such practices, which sit outside of the mandate of conservation authorities, without the support of our municipal partners;

IT IS RECOMMENDED THAT TRCA continue to support partner municipalities and organizations in the development of appropriate sites and solutions for the environmentally and culturally sensitive dispersal of funeral ashes when requested to do so or when TRCA permissions are required;

THAT TRCA recommend that municipal partners consult with TRCA regarding implementing processes or identifying sites related to the dispersal of funeral ashes in creeks, rivers and other bodies of water to ensure such practices are carried out in a legally compliant and an environmentally sensitive manner;

AND FURTHER THAT TRCA express willingness to work with partner municipalities to facilitate requests to identify appropriate sites on TRCA lands for the environmentally and culturally sensitive dispersal of funeral ashes, subject to the municipality providing all required funding, maintenance and customer service resources, and to enter into appropriate fee for service and other agreements with TRCA to this end.

BACKGROUND

The dispersal of funeral ashes into water bodies such as rivers, creeks is a common end-of-life practice for various faith groups. Toronto and Region Conservation Authority (TRCA) is a significant landowner with regulatory responsibilities in the Greater Toronto Area (GTA), a resource management agency and a service provider to municipalities on the management of their greenspace. Therefore, TRCA has an interest in practices surrounding the dispersal of funeral ashes in watercourses, as well as associated practices, such as the leaving of offerings, especially where these activities have an environmental effect on these features.

In 2004, TRCA and Credit Valley Conservation (CVC) began collaborative work to address the issue of religious offerings, such as coconuts, fruit, cloth, coins or jewelry, being deposited in rivers, creeks and other bodies of water within Peel Region. Further, as the dispersal of funerary

Item 8.4

ashes into water is customary for many faith groups, CVC and TRCA also began exploring the issue of, and need for, appropriate sites and guidelines for this practice. As part of this work, TRCA and CVC established a working relationship with the Hindu community in Mississauga to learn more about Hindu practices and in turn, share knowledge about watershed health and potential impacts due to certain practices. As a result of this collaboration, in 2006 CVC, TRCA and the Hindu Federation jointly released a brochure providing information on the impacts of religious offerings to watercourses and providing more sustainable recommendations, such as composting flowers and coconuts instead of leaving them in waterways and donating unsustainable offerings to a local temple. TRCA continued to work with temple leaders to seek opportunities for outreach and education regarding water-based faith activities and the issue of religious offerings in watercourses.

Provincial Guidelines

In the Summer of 2007, the then Ministry of Government Services and Consumer Relations (MGSCR – later re-designated the Ministry of Consumer Services) created an inter-agency working group to investigate the uses and practices of dispersing ashes on water and to recommend a solution. At the time, working group membership included MGSCR, Ministry of Natural Resources, Ministry of Environment, Environment Canada, Fisheries and Oceans Canada and CVC, who represented Conservation Ontario. Following the working group's efforts, Guidelines for Scattering Cremated Human Remains in Ontario were introduced by the Province in 2009 ("Provincial Guidelines"). The Provincial Guidelines state that the remains from cremation or alkaline hydrolysis may be scattered on private property with the consent of the landowner. The Provincial Guidelines also state that funerary ashes may be scattered on occupied and unoccupied Provincial Crown land and Crown land covered by water. Specifically, the current version of the guidelines provide that individuals may "scatter the remains from cremation or alkaline hydrolysis on Crown land, including land covered by water, if it is unoccupied (for example provincial park, conservation reserve, Great Lakes) and there are no signs or postings that prohibit scattering." (<https://www.ontario.ca/page/arrange-funeral-burial-cremation-alkaline-hydrolysis-or-scattering>).

In line with that guidance, Ontario Parks allows the scattering of ashes without permission, but does, however, provide the following guidance:

- Prior to scattering any ashes, individuals should contact park offices to determine a suitable location;
- A day permit is required for park use;
- No offerings may be left at the site; and
- Burial is not permitted (per the *Funeral, Burial and Cremation Services Act*)

Within the GTA, signage has been erected at Bronte Creek Provincial Park in Oakville advising of the right to disperse ashes on Crown land. However, there is currently no designated site for this activity at the park.

It should be noted that given the sensitive nature of dispersing funerary ashes, there exist several additional requirements for undertaking these practices. These include a certain level of privacy, securing of permits for any built structures, as well as additional logistical requirements, such as an accessible site and sufficient parking.

Provincial Legislation

The *Funeral Burial and Cremation Services Act* (2002, S.O. 2002, c. 33) prohibits the internment (i.e., burial) of human remains, including urns (containing ashes) except in a registered and operating cemetery. With respect to the dispersal of cremated human remains,

Item 8.4

the *Funeral, Burial and Cremation Services Act* prohibits maintaining or setting aside land for the dispersal of cremated human remains unless the land is within a licensed cemetery. This prohibition in the legislation is interpreted as not applying to creeks, rivers and other water bodies where the bed is owned by the Crown, consistent with the Provincial Guidelines. Any proposal for accessing lands owned or managed by TRCA for the dispersal of funeral ashes would need to be assessed to ensure compliance with the Act. This assessment would include consideration of the proposed means of accessing TRCA lands, the underlying ownership of the river, creek or other waterbody, requirements for associated signage and infrastructure, maintenance and operational needs, other uses and users of the area, as well as financial impacts including whether a fee is charged for the right to access the TRCA lands to disperse funeral ashes in the river, creek or other water body.

Current Municipal Practices within TRCA's jurisdiction

With respect to municipal lands, the Provincial Guidelines provide that an individual may "scatter the remains from cremation or alkaline hydrolysis on municipally-owned lands (contact the municipality to check if there are by-laws that prohibit scattering in certain areas such as municipal parks)". This guidance does not appear to refer to maintaining or setting aside municipal lands for the purpose of scattering ashes, and appears to be speaking to one-time occurrences of scattering ashes. Most municipalities within TRCA's jurisdiction do not have specific by-laws or policies related to scattering funeral ashes. However, municipalities are noting an increased demand from the public in general and from faith groups for accessible options to undertake the dispersal of funeral ashes in rivers, creeks and other bodies of water. As such, many municipalities are examining the options for this practice. For example, TRCA has worked with City of Mississauga staff to explore various options to offer closer, more accessible sites for scattering funeral ashes and will work with other partner municipalities, such as the City of Toronto, upon request (see "Rationale" section that follows).

Waterfront parks, as well as destination parks throughout the City of Toronto, are heavily used for personal recreational activities like picnicking, walking, running and cycling, as well as for informal and formal organized social and recreational programs and events (when compliant with local public health regulations and municipal permits). There is a need to reduce user conflict along the Lake Ontario waterfront and in other park locations where recreationalists come into contact with the bereaved as they undertake the dispersal of funeral ashes. This has been of particular concern at the boat launch areas at Bluffers Park in Toronto. While the City of Toronto does not currently allow the dispersal of funeral ashes on City property, including in parks, it is expected that new language around the scattering of ashes in City of Toronto parks and greenspace will be considered as part of an update to the City's Parks By-Law. City of Toronto staff also recently brought a report to the Council meeting held on June 8, 2021 (Item IE22.3, entitled "Toward Environmentally and Culturally Sensitive Dispersal of Funeral Ashes"), seeking direction to consult with stakeholders, including TRCA, on considerations and options for the appropriate dispersal of funeral ashes which was approved by Council.

Other municipalities have elected to create facilities for the explicit purpose of funeral ash dispersal. The City of Pickering, for example, created an accessible path to facilitate access to its beachfront where users can leave religious offerings on and for the dispersal of ashes in Lake Ontario. While the City does not have any by-laws or Council resolutions explicitly allowing the dispersal of funeral ashes, City staff worked with the Devi Mandir Hindu Temple in Pickering to identify a suitable site, the location of which was chosen due to its proximity to parking and the accessibility and privacy it offers. The temple stewards the designated site and ensures that all offerings left are biodegradable and that no offerings are left which may negatively impact the environment. Both City and temple representatives have noted that while the site was created

Item 8.4

for the local community, many users of the site are now from other municipalities. High water levels on Lake Ontario can also make the site inaccessible and also caused concerns related to erosion, but overall, the site has been well used for approximately a decade with minimal public complaints or concerns.

Current Practices on TRCA Lands

There are currently no TRCA policies or Board of Directors resolutions explicitly sanctioning dispersal or scattering of funeral ashes on TRCA lands. Rather, historical TRCA Board of Directors resolutions focus more so on continued partnership with, and outreach to, faith groups on environmentally responsible and culturally sensitive practices and options. TRCA Board of Directors resolutions also commit to assist our local municipalities in identifying locations for religious offerings and dispersal of ashes, when requested to do so (RES. #B120/09, Executive Committee Meeting #7/09 held on September 11, 2009).

Other Conservation Authorities have taken a more explicit approach to their own lands, such as the CVC Board of Directors, which has passed a resolution that the scattering of ashes on CVC owned land is not permitted (#69/14, CVC Board of Directors, July 4, 2014).

As well, TRCA continues to play a regulatory role for any activities within a TRCA regulated area under s.28 of the *Conservation Authorities Act*, that would propose alterations to a watercourse. TRCA will review any applications for proposed sites to disperse funeral ashes in a watercourse, whether the proposed site is on TRCA, municipal or private lands, on a case-by-case basis and would evaluate the application based on the merits of whether the application meets TRCA policy tests.

RATIONALE

Overseeing the location and activity of scattering funeral ashes does not fall within TRCA's mandated responsibilities. This service falls more appropriately within the jurisdiction of agencies responsible for cemeteries and other end of life institutions, namely municipalities and faith-based organizations, or even private companies such as cemetery groups. However, TRCA would consider a request by a partner municipality that is interested in establishing an appropriate site, under management agreement with the TRCA, which explicitly includes for the dispersal of funeral ashes utilizing TRCA lands, subject to a detailed review and upon completion of an agreement as outlined in more detail below such an agreement would include all costs for TRCA being covered by the municipality. Such a request would also include required resourcing for all aspects of the development, operations and administration of such a site.

Potential TRCA Support for Municipalities

In partnership with municipalities or in our role as technical reviewers and resource managers, TRCA can play an important advisory role with respect to the selection of appropriate sites along watercourses within the jurisdiction, as well as potentially play a support role on a fee-for-service basis in the planning, design and construction of infrastructure along watercourses. Regardless of the agency or organization overseeing and administering the dispersal of funeral ashes, the following considerations, and associated costs, should be kept in mind in site selection along watercourses for the purposes of scattering funeral ashes:

- There must be evidence there will be no negative impact on the watercourse. This may be through investigatory studies, ongoing monitoring, or added restoration to mitigate potential impacts or create an added benefit to the aquatic system. Negative impacts can include, but not be limited to, excessive sediment or debris accumulation, loss of

Item 8.4

riparian or aquatic habitat, trampling of vegetation, and/or shoreline or streambank erosion;

- Consideration of sites could include areas of existing disturbance to minimize impacts to undisturbed natural areas, as well as areas with existing public access, or where public access can be easily achieved;
- Sites should be located where access to flowing water or open water can be achieved to limit the build-up of ashes over time;
- To mitigate environmental risks and where it is culturally appropriate, it may be advisable to consider alternatives to direct input into a watercourse, such as a treatment wetland. However, such an option would need to be discussed with the potential user groups of such a site to ensure appropriateness for the faith groups that may utilize the facility;
- Provided there is no negative impact, infrastructure to minimize damage to the shoreline should be considered, such as a modified fishing node, gathering site or access point;
- Archaeological sites along watercourses should be considered to prevent the contamination of those sites; and
- Cultural and physical accessibility, both in general and for people with mobility issues, considerations for the location and of the appropriateness of the site must be considered. Outreach to the communities that may utilize the site should be carried out.
- Given the sensitive nature of dispersing the funeral ashes of loved ones, an appropriate agency or organization with appropriate experience should administer the customer services aspects of this work.
- Lands should be under management agreement with member municipalities to provide customer service and legal indemnity to TRCA for this use.

It is TRCA's preference that if a partner municipality wished to work with TRCA to create an opportunity for the sensitive and appropriate dispersal of funeral ashes, that a specific site or sites be identified, rather than opening up TRCA properties at large to the practice. This is to ensure that use of the site does not conflict with other intensive uses and conservation purposes of the resources and to ensure users are directed to an appropriate site for access to water, as well as to focus the municipal resources that would be needed for maintenance, signage and education of users on what and cannot be done at the site.

Based on TRCA's Restoration Projects and Habitat Restoration groups' previous experience, promontory structures (i.e. armourstone lookout) at the water's edge can provide a suitable gathering space to facilitate this type of ceremony. Site specific factors and engineering requirements would need to be considered for the design and construction of these types of structures, which may include size of structure, site grades and underlying soil conditions. Site specific environmental permits and approvals for this type of work would also need to be considered, which is likely to include consultation with or permissions from TRCA's Regulatory Review staff, Ministry of Natural Resources and Forestry (MNR), Ministry of the Environment, Conservation and Parks (MECP), and in some instances, Fisheries and Oceans Canada (DFO).

If a municipality approached TRCA to explore the possibility of dispersing funeral ashes on one or more of TRCA's properties, several pieces of work would need to be undertaken. TRCA would need to retain legal counsel with experience in this area to advise on site-specific compliance, both by TRCA and any potential operators of such services on TRCA land. TRCA staff would also need to identify appropriate sites where the regular dispersal of funeral ashes would have minimal property use and ecological impacts and potentially set limits on the number of dispersals allowed annually, as well as establish a monitoring program for the site. In recognition of TRCA's mandate and the limits of TRCA's existing areas of expertise, it is also recommended that either a municipality or appropriate organization (such as an end-of-life

Item 8.4

service provider) provide any related services required for the bereaved related to the dispersal of ashes of their loved ones.

To provide additional clarity regarding roles and responsibilities, a review of the management agreements for the lands owned by TRCA and managed by partner municipalities could also be undertaken to add more specific language regarding the dispersal of ashes. This could be incorporated into a more fulsome TRCA policy regarding end-of-life commemorations or activities on TRCA-owned lands that are managed by a partner municipality, a faith-based organization, or an organization involved in end of life services. If such activities were to be considered, it is critical that all costs, including both capital costs for infrastructure or facility development and background studies, as well as ongoing operating and monitoring costs, be funded by a municipality or appropriate agency.

TRCA's work with partner municipalities

TRCA's work with the City of Mississauga is an example of how TRCA can support municipal partners in identifying options and considerations for sites to scatter funeral ashes in watercourses. In June 2019, local Councillors and TRCA Board Members requested that TRCA examine appropriate sites and processes to facilitate the dispersal of funeral ashes in accordance with the faith requirements of the Hindu community. Such a site would be non-denominational and could be utilized by various groups.

To address this request through the latter half of 2019, TRCA staff met with City of Mississauga Parks and Forestry ("City") staff to discuss and identify opportunities for appropriate sites for the dispersal of funeral ashes in watercourses within TRCA's jurisdiction. The City of Mississauga is currently in the preliminary stages of identifying potential locations for short term and longer term options.

TRCA staff worked with City staff to determine risks due to the proposed dispersal of funeral ashes, including examining risks from a source water protection perspective, as well as risks to water quality and aquatic habitat. TRCA also reached out to the MECP regarding this proposal. Ministry staff did not raise any concerns about the dispersal of funeral ashes in creeks. In all such cases, TRCA staff recommend that baseline and ongoing monitoring of the watercourse be undertaken to ensure that no damage or impairments to water quality or aquatic habitat occur. Concerns related to the dispersal of offerings that may impact water quality or aquatic habitat, such as coconuts, other fruit, coins, jewelry or other objects, could be dealt with through the City's By-Law and through ongoing education efforts by both the City and TRCA. TRCA Archaeology staff should also review any proposed sites to confirm that there are no archaeological sites at risk registered along associated stretches and that there is no risk of impacting or contaminating archaeological sites. If a site is selected, it is also recommended that TRCA and City staff review any restoration work that has been completed or is proposed for the site to ensure no impacts. Selected sites should also be identified to minimize future archaeological contamination from burial uses.

TRCA staff will continue to work with the City to support environmentally and culturally appropriate practices related to dispersing funeral ashes in watercourses, and will provide similar support, as requested, to partner municipalities, as well as continuing to play an ongoing regulatory role.

Furthermore, as outlined above, TRCA will participate in stakeholder consultations to be held by City of Toronto staff to support City work related to establishing an appropriate site and processes related to the culturally and environmentally sensitive dispersal of funeral ashes.

Item 8.4

TRCA's work with faith-based organizations

In addition to supporting the City of Mississauga in this initiative, TRCA has also worked with other organizations to facilitate and provide guidance on the creation of appropriate sites for the dispersal of funeral ashes. For example, TRCA has worked with the Ontario Khalsa Darbar on proposed landscaping construction that the organization will undertake in order to create a site on Etobicoke Creek for the dispersal of funeral ashes. A permit was issued by TRCA in May 2020 for Ontario Khalsa Darbar to commence this work, with a member of the TRCA Board of Directors speaking at the launch of construction at this site.

TRCA Education and Training staff has also worked with faith-based organizations on educational materials and initiatives related to the leaving of offerings in creeks and rivers, such as the brochure mentioned above, which was developed with the Hindu Federation and CVC, as well as undertaking outreach activities in Hindu temples.

Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan

This report supports the following strategy set forth in the TRCA 2013-2022 Strategic Plan:

Strategy 7 – Build partnerships and new business models

FINANCIAL DETAILS

TRCA has provided assistance to the City of Mississauga in recent discussions by facilitating high-level guidance and coordination with relevant TRCA staff through account 101-03. If municipalities or other organizations require more in-depth work from TRCA, including monitoring, in-depth stakeholder engagement, or design, restoration or project management work, it is expected that this would be conducted on a fee-for-service basis via an existing or expanded Memorandum of Understanding or Service Level Agreement.

Regarding the design of access and gathering nodes for the dispersal of funeral ashes, and dependent on-site specific factors, it is estimated that the cost for planning, design, and implementation of this type of structure would be in the range of approximately \$125,000 - \$250,000. This does not include additional expected associated costs, such as signage, plantings, monitoring or archaeological assessments. Additional costs may be borne for the ongoing management of the lands, including maintaining customer service standards.

DETAILS OF WORK TO BE DONE

TRCA will continue to support municipalities, such as the City of Mississauga and City of Toronto, through providing guidance on best practices and considerations and potentially engagement with relevant faith groups, where the work aligns with TRCA's mandate. TRCA may also provide fee-for-service work that can include: providing detailed advice; aquatic monitoring; design, restoration and/or project management services for sites or facilities adjacent to watercourses; and/or more in-depth education and engagement with stakeholders. TRCA will continue to provide plan review services for relevant projects and sites that require TRCA permits.

Report prepared by: Victoria Kramkowski, extension 5707; Kate Goodale, extension 5280

Emails: victoria.kramkowski@trca.ca; kate.goodale@trca.ca

For Information contact: Victoria Kramkowski, extension 5707

Emails: victoria.kramkowski@trca.ca

Date: June 7, 2021